

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

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IN RE PHARMACEUTICAL INDUSTRY  
AVERAGE WHOLESALE PRICE  
LITIGATION

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)  
) MDL No. 1456  
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) Civil Action No. 01-12257-PBS  
)

THIS DOCUMENT RELATES TO

) Judge Patti B. Saris  
)

01-CV-12257-PBS

**TRACK 1 DEFENDANTS' MODIFIED PROPOSED FORM OF  
JUDGMENT UNDER RULE 54(B)**

On August 10, 2007, the Track 1 Defendants moved for entry of judgment pursuant to Fed. R. Civ. P. 54(b) and attached to that motion Proposed Findings and Proposed Forms of Judgment. (*See* Track 1 Defs.' Mot. for the Entry of J. Pursuant to Fed. R. Civ. P. 54(b) (Aug. 10, 2007) (Dkt. # 4616).) To account for developments since the August 10 filing, the Track 1 Defendants submit the modified Proposed Findings and Forms of 54(b) Judgment which are attached as Exhibit A. The attached modification implements certain changes to the Proposed Findings suggested by Plaintiffs and agreed to by the Track 1 Defendants. (*See* Pls.' Resp. to Track 1 Defs. Mot. for the Entry of J. Pursuant to Fed. R. Civ. P. 54(b) (Aug. 16, 2007) (Dkt. # 4629); Track 1 Defs.' Mot. for Leave to File a Reply to Pls.' Resp. to Their Mot. for Entry of J. Under R. 54(b) (Aug. 24, 2007) (Dkt. # 4656) (attaching Reply).) In addition, the attached modification inserts agreed upon pre-judgment interest figures for BMS and AstraZeneca. Lastly, the attached modification reflects that, during the August 27 damages hearing, the Court found that Warrick Pharmaceuticals Corporation did not cause damage to Class 2. (*See* Tr. of

8/27/07 AWP Damages Hearing (14:24-19:9); Warrick Pharmaceuticals Corp.'s Post-Damages Hearing Submission Concerning Liability and Declaratory Relief (Sept. 7, 2007) (Dkt. # 4693).)

A redline showing the modifications to the August 10 proposal is attached as Exhibit B.

Respectfully submitted,

TRACK 1 DEFENDANTS

/s/ John T. Montgomery

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Dated: September 14, 2007

**CERTIFICATE OF SERVICE**

I hereby certify that on September 14, 2007, I caused a true and correct copy of the foregoing to be served on all counsel of record by electronic service pursuant to Case Management Order No. 2 entered by the Honorable Patti B. Saris in MDL 1456.

/s/ Daniel J. Bennett  
Daniel J. Bennett